

A nonprofit organization created to foster the development in a community of an appreciation for drama and musical arts by sponsoring professional presentations qualifies for exemption under section 501(c)(3) of the Code.

Advice has been requested whether an organization that otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 is operated for charitable purposes where its only activities are those described below.

The organization was created as a nonprofit organization to foster the development in the community of an appreciation for the drama and musical arts by sponsoring professional presentations, such as plays, musicals, and concerts. Its charter provides that any income not needed for operating expenses and suitable reserves is to be distributed to charitable organizations.

Each year the organization presents performances of a small number of professional theatrical productions that are not otherwise available in the community. These productions are normally procured by the organization through an annually renewable contract with a commercial booking agency that had also played a major role in its original creation. The organization is fully autonomous, however, and free to book shows through other agencies. A substantial amount of nonprofessional service is donated to the organization but its cash receipts are normally limited to membership dues, subscription fees, and single ticket sales.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable and educational purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Organizations devoted to the promotion of the arts may qualify for exemption from Federal income tax under section 501(c)(3) of the Code. See Rev. Rul. 64-174, 1964-1 C.B. 183, and Rev. Rul. 64-175, 1964-1 C.B. 185. By bringing professional theatrical productions into the community in the manner described above, the organization is engaged in a charitable activity by promoting the arts.

The organization's contracts with the theatrical agency do not indicate that the organization is serving a private interest, since the contracts are negotiated at arm's length, are subject to renewal annually, and permit the organization to book shows with other agencies. Similarly, the fact that the commercial booking

agency was instrumental in creating the organization does not establish that the organization is serving private purposes, since the agency exercises no control over the organization's operations.

Accordingly, it is held that the organization's activities are charitable and, since it otherwise qualifies for exemption, the organization is exempt under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.